

Assembly Bill No. 1705

CHAPTER 512

An act to amend Section 14556.26 of the Government Code, to amend Section 130265 of the Public Utilities Code, and to amend Section 182.6, 182.7, and 182.8 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 4, 2001. Filed with
Secretary of State October 4, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1705, Committee on Transportation. Transportation.

(1) Existing law requires that a regional or local agency receiving an allocation from the Traffic Congestion Relief Fund certify that it will sustain its level of expenditures for transportation purposes at a level that is consistent with the average of its annual expenditures during the 1997–98, 1998–99, and 1999–2000 fiscal years, including funds reserved for transportation purposes.

This bill, with respect to a transportation entity that imposes a retail transactions and use tax for transportation purposes in accordance with certain provisions of law and receives an allocation from the fund, would require the governing board of the entity to certify by resolution that the entity will expend the allocation for the originally programmed purpose, and that the entity will not use for other than transportation capital purposes any capital funds that were programmed, planned, or approved for transportation capital purposes on or before a specified date.

(2) Existing law authorizes the California Transportation Commission to offer to exchange state funds from the Traffic Congestion Relief Fund for federal regional surface transportation program and congestion mitigation and air quality program apportionments received as local assistance by regional transportation planning agencies. The Department of Transportation is required to repay to the fund all funds received as federal reimbursements for funds exchanged as they are received from the Federal Highway Administration.

This bill instead would require the department to repay from the State Highway Account in the State Transportation Fund to the Traffic Congestion Relief Fund all funds received as federal reimbursements, as they are received, for funds exchanged under the exchange program,



except that the repayments are not required to be made more frequently than on a quarterly basis.

(3) Under existing law, the Los Angeles County Transportation Commission adopted an approved San Fernando Valley rail rapid transit route and plan, as an extension of metro rail or advanced technology transit, other than light rail, that is a deep bore subway through residential areas, unless modified through a subsequent state or federal environmental review process. Therefore, in specified areas, existing law prohibits any exclusive public mass transit rail guideway, rail rapid transit or light rail system, or other track, other than as a subway system that is covered and below grade, from being constructed.

This bill would make technical changes to these provisions.

(4) This bill would incorporate changes to Section 182.7 of the Streets and Highways Code proposed to be made by Assembly Bill 1706 that would become operative if both bills are enacted and this bill is enacted after Assembly Bill 1706.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 14556.26 of the Government Code is amended to read:

14556.26. (a) Except as provided in subdivision (b), a regional or local agency receiving an allocation from this program shall certify, by resolution of its governing board, before final execution of the cooperative agreement, that it will sustain its level of expenditures for transportation purposes at a level that is consistent with the average of its annual expenditures during the 1997–98, 1998–99, and 1999–2000 fiscal years, including funds reserved for transportation purposes, during the fiscal years that the allocation provided under this chapter is available for use. The certification is subject to audit by the state.

(b) A transportation entity that imposes a retail transactions and use tax in accordance with an ordinance adopted pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code for transportation purposes, and receives an allocation under this program, shall certify, by resolution of its governing board, before final execution of the cooperative agreement, that during the fiscal years that the allocation provided under this chapter is available for use, the transportation entity will expend the allocated funds for the originally programmed purpose, and that the entity will not use for other than transportation capital purposes any capital funds that were programmed, planned, or approved for transportation capital purposes



on or before the effective date of the cooperative agreement. The certification is subject to audit by the state.

SEC. 2. Section 130265 of the Public Utilities Code is amended to read:

130265. In 1990, the Los Angeles County Transportation Commission adopted an approved San Fernando Valley rail rapid transit route and plan as described in the Findings and Mitigation Monitoring Program adopted by the Los Angeles County Transportation Commission on February 28, 1990, as an extension of metro rail or advanced technology transit, other than light rail, that is a deep bore subway through residential areas, unless modified through a subsequent state or federal environmental review process. Therefore, the following apply within the right-of-way of the Burbank Branch line of the Southern Pacific Railroad:

(a) In the area between the western curb of Hazeltine Avenue and a line parallel to and 50 feet west of the western edge of the Hollywood freeway, there may not be constructed any exclusive public mass transit rail guideway, rail rapid transit or light rail system, or other track, other than as a subway system that is covered and below grade.

(b) In the area described in subdivision (c), no station may be constructed, other than a station where the main entrance is located on property that is currently part of the Los Angeles Valley College campus or on that portion of the existing railroad right-of-way located north of Burbank Boulevard and east of Fulton Avenue.

(c) In the area below Tujunga Wash and at least one mile to the east and west of Tujunga Wash, there may not be constructed any exclusive public mass transit rail guideway, rail rapid transit or light rail system, or other track, other than as a subway using boring technology as a deep bore subway located at least 25 feet below ground, measured from the existing ground level to the top of the tunnel.

(d) This section is not intended to mandate the selection by the Los Angeles County Transportation Commission of any transit route or the construction of any route configuration or alignment, or to prevent consideration by that commission of any monorail or other advanced technology option on any alternative route, but this section is intended solely to define statutorily the route configuration and alignment limitations adopted locally by the Los Angeles County Transportation Commission on February 28, 1990.

SEC. 3. Section 182.6 of the Streets and Highways Code is amended to read:

182.6. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state



pursuant to that portion of subsection (b)(3) of Section 104, subsections (a) and (c) of Section 157, and subsection (d) of Section 160 of Title 23 of the United States Code that is allocated within the state subject to subsection (d)(3) of Section 133 of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in subsection (d)(3) of Section 133 of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year



average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990–91, for use by that county.

(e) The department shall notify each metropolitan planning organization, county transportation commission, and transportation planning agency receiving an apportionment under this section, as soon as possible each year, of the amount of obligation authority estimated to be available for program purposes.

The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and program projects in conformance with federal law. The metropolitan planning organization and transportation planning agency shall submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program not later than August 1 of each even-numbered year beginning in 1994.

(f) Not later than July 1 of each year, the metropolitan planning organizations, and the regional transportation planning agencies, receiving obligational authority under this article shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will be obligated by the end of the current federal fiscal year. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organizations or regional transportation planning agencies relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsections (d)(3) and (f) of Section 133 of Title 23 of the United States Code.

(g) A regional transportation planning agency that is not designated as, nor represented by, a metropolitan planning organization with an urbanized area population greater than 200,000 pursuant to the 1990



federal census may exchange its annual apportionment received pursuant to this section on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d).

(h) (1) If a regional transportation planning agency described in subdivision (g) does not elect to exchange its annual apportionment, a county located within the boundaries of that regional transportation planning agency may elect to exchange its annual apportionment received pursuant to paragraph (2) of subdivision (d) for nonfederal State Highway Account funds.

(2) A county not included in a regional transportation planning agency described in subdivision (g), whose apportionment pursuant to paragraph (2) of subdivision (d) was less than 1 percent of the total amount apportioned to all counties in the state, may exchange its apportionment for nonfederal State Highway Account funds. If the apportionment to the county was more than $3\frac{1}{2}$ percent of the total apportioned to all counties in the state, it may exchange that portion of its apportionment in excess of $3\frac{1}{2}$ percent for nonfederal State Highway Account funds. Exchange funds received by a county pursuant to this section may be used for any transportation purpose.

(i) The department shall be responsible for closely monitoring the use of federal transportation funds, including regional surface transportation program funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(l) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(m) Notwithstanding subdivisions (g) and (h), regional surface transportation program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the



department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

SEC. 4. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 19 of Title 3 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency established by Section 29532 of the Government Code. The funds shall be apportioned to metropolitan planning organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Notwithstanding subdivision (b), where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all congestion mitigation and air quality program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first apportioning to the nonattainment and maintenance areas in the manner



and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code.

In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than August 1 of each even-numbered year beginning in 1994, submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program.

(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsection (f) of Section 133 of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management and



air quality funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h) above, prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(j) Congestion mitigation and air quality program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

SEC. 4.5. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 149 of Title 23 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned by the department



to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency established by Section 29532 of the Government Code. The funds shall be apportioned to metropolitan planning organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Notwithstanding subdivision (b), where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all congestion mitigation and air quality program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first apportioning to the nonattainment and maintenance areas in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code.

In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than August 1 of each even-numbered year beginning in 1994, submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program.



(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsection (f) of Section 133 of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management and air quality funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) .

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h) , prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(j) Congestion mitigation and air quality program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds



received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

SEC. 5. Section 182.8 of the Streets and Highways Code is amended to read:

182.8. (a) It is the intent of the Legislature that this program help increase flexibility in the use of state and federal funding to complete transportation improvements. The ability to exchange certain federal funds for state funds may enhance that flexibility. However, it is the intent of the Legislature that the commission make these exchanges only if the exchanges do not compromise other state funded projects or activities.

(b) The commission shall propose guidelines and procedures to implement this section, hold a public hearing on the guidelines, and adopt the guidelines on or before February 1, 2001. The commission shall begin the exchange program on or before February 1, 2001, if it determines that funding is available for that purpose. The commission may amend its guidelines after holding a public hearing, but may not amend the guidelines between the time it notifies regional transportation planning agencies of the amount of state funds available for exchange and its approval of projects for exchange in any given year.

(c) On or before January 5 of each year, the department shall report to the commission the amounts apportioned as federal local assistance in the regional surface transportation and congestion mitigation and air quality programs for the year, the Federal Obligation Authority for the year, and the amount of federal funds it expects to be able to obligate for work on projects in all programs on or before September 30 of that year, and the commission, in cooperation with the department, shall determine the amount of state funds from the Traffic Congestion Relief Fund that can be made available for exchange under this section. If the release of federal apportionments and obligational authority is delayed beyond November 1 in any year, all the dates specified in this section shall be extended by an equivalent time, however, all federal funds exchanged shall be obligated on or before September 30 of the current federal fiscal year.

(d) The commission may exchange funds under this section if it determines all of the following:

(1) Adequate state funds are available to accomplish the exchange without putting at risk other transportation activities or projects needing state funds.

(2) Any exchange will be consistent with full implementation of the Traffic Congestion Relief Act of 2000.



(3) Federal funds received in exchange can be readily and effectively used on other projects or activities by the state during the federal fiscal year.

(e) After making the determinations set forth in subdivision (d) the commission may offer to exchange state funds from the Traffic Congestion Relief Fund for federal local assistance funds, subject to the limits imposed under this section. For the purpose of this section, “federal local assistance” funds means regional surface transportation program or congestion mitigation and air quality program apportionments received that federal fiscal year and apportioned as local assistance pursuant to Sections 182.6 and 182.7.

(f) Not later than February 1 of each year, the commission shall notify the regional transportation planning agencies of the amount of state funds available for exchange for federal local assistance funds for that year. The maximum amount of state funds to be exchanged may not exceed 50 percent of the total amount of federal regional surface transportation program and congestion mitigation and air quality program funds apportioned for the current fiscal year as local assistance pursuant to subdivision (b) of Section 182.6 and subdivision (b) of Section 182.7, exclusive of state funds that may be exchanged pursuant to subdivision (g) of Section 182.6, paragraphs (1) and (2) of subdivision (h) of Section 182.6, or Section 182.7. Federal funds exchanged under this program shall be available for projects identified by the commission as ready to obligate during determination of the amount available for exchange. The amount of exchange may not exceed the department’s ability to obligate all federal funds during the current federal fiscal year. The commission may not exchange state funds for regional surface transportation program funds required to be spent for transportation enhancements. This section does not affect the amount of exchange under subdivision (g) of Sections 182.6, or paragraphs (1) and (2) of subdivision (h) of Section 182.6.

(g) Regional transportation planning agencies may submit applications for exchange of funds to the commission not later than March 15 of each year. Applications shall identify the proposed use for the exchange funds, including project descriptions, cost estimates, scopes of work, schedules for construction, schedules for expenditures, and any other information required by the commission. The commission may require a region to identify priorities among applications it submits.

(h) If the commission receives applications for more exchange funds than the amount of state funds available, the commission shall select projects for exchange up to the amount of state funds available. The commission shall explain the criteria it uses to select projects, which shall include, but are not limited to, all of the following:



- (1) Removal of all federal funds from projects.
- (2) Assessment of projects that would benefit most from removal of federal funding because of size, type, location, agency capability, features, or federal requirements.
- (3) Approximate relative equity within the program among regions in receiving state exchange funds over a multiyear period.
 - (i) The commission may exchange state funds for federal local assistance funds with agencies requesting exchanges. Agencies wishing to exchange their federal funds shall provide apportionments and obligation authority at the same rate the Federal Highway Administration distributes obligation authority. Agencies exchanging federal funds shall receive funds equal to 90 percent of the obligation authority exchanged. The commission shall approve exchanges of funds not later than its second regularly scheduled meeting following March 15 each year.
 - (j) The commission shall determine an exchange payment schedule based on expenditure plans. The commission may suspend exchange payment schedules if it determines projects are not proceeding.
 - (k) For financial display and reporting purposes, obligational authority received pursuant to this section shall be reported as a revenue accrual in the Traffic Congestion Relief Fund in the year in which the exchange is approved under subdivision (i). Funds approved for exchange shall be accrued as expenditures in the year in which the exchange is approved. Notwithstanding Section 16362 of the Government Code, the department shall repay, on a quarterly basis, at most, from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under this section as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.
 - (l) State funds provided through an exchange under this section shall be encumbered within one year and expended within three years.
 - (m) Upon adoption of its implementing guidelines, the commission may consider requests for exchanges under this section.
 - (n) Regional and local agencies shall use state exchange funds only for projects or purposes for which the federal local assistance funds being exchanged were originally intended, and may not supplant local funds on projects in order that those local funds can subsequently be used for nontransportation purposes. The commission may require agencies to certify that they are meeting this requirement. Agencies not meeting this maintenance of effort requirement may not be allowed to participate in the next exchange cycle.



(o) The commission shall include a summary of exchanges made pursuant to this section in its annual report to the Governor and Legislature pursuant to Section 14556.36, including an assessment of progress in implementing projects funded by exchanges, and discussion of issues and recommendations related to implementation of the exchange program.

(p) Not later than the effective date of the reauthorization of the federal surface transportation act, the commission shall submit a report to the Governor and the Legislature recommending any changes in the exchange program necessitated by that reauthorization.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 182.7 of the Streets and Highways Code proposed by both this bill and Assembly Bill 1706. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, but this bill becomes operative first, (2) each bill amends Section 182.7 of the Streets and Highways Code, and (3) this bill is enacted after Assembly Bill 1706, in which case Section 182.7 of the Streets and Highways Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of Assembly Bill 1706, at which time Section 4.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement changes relating to funding of important transportation improvements as quickly as possible and to avoid delays in implementing transportation improvements, it is necessary that this act take effect immediately.

